

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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Serendip LLC

Plaintiff,

v.

16-cv-2478 (DAB)  
ORDER TO SHOW CAUSE

Neochrome, Musicast, and Nicolas Salvadori,

Defendants.  
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DEBORAH A. BATTS, United States District Judge.

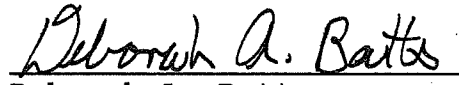
On April 3, 2016, Plaintiff filed the Complaint in the instant matter. Since that time, the Court's records indicate that Defendants Neochrome, allegedly a French company, and Nicolas Salvadori, allegedly a resident of France, have not been served. Although Federal Rule of Civil Procedure 4(m)'s time limit for service does not apply to foreign defendants, courts apply a "flexible due diligence standard" to service on foreign defendants. E.g., S.E.C. v. Shehyn, No. 04 CIV. 2003 (LAP), 2008 WL 6150322, at \*4 (S.D.N.Y. Nov. 26, 2008). Accordingly, Plaintiff is in violation of Federal Rule of Civil Procedure 4(f) of the Federal Rules of Civil Procedure, as to Defendants Neochrome and Salvadori.

Accordingly, if Plaintiff fails TO SHOW CAUSE by affidavit why it has not served Defendants Neochrome and Salvadori within

30 days of the date of this Order, this case shall be dismissed against Defendants Neochrome and Salvadori for failure to prosecute. See Lyell Theatre Corp. v. Loews Corp., 682 F.2d 37, 42 (2d Cir. 1982) ("[T]he authority of a federal trial court to dismiss a plaintiff's action with prejudice because of his failure to prosecute cannot seriously be doubted." (quoting Link v. Wabash R.R. Co., 370 U.S. 626, 629 (1962))).

SO ORDERED.

DATED:      October 20, 2016  
                 New York, New York

  
Deborah A. Batts  
U.S. District Judge